

Amrane Cohen, Chapter 13 Trustee
Brian D. Wirsching (SBN 189491)
770 The City Drive South, Suite 8500
Orange, CA 92868
Phone (714) 621-0200
Fax (714) 621-0277
Office e-mail: efile@ch13ac.com
Direct e-mail: brian@ch13ac.com

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION

In re:

RANDY RAMIREZ

Debtor(s)

Case No.: 8:18-bk-12466-CB

Chapter 13

**CHAPTER 13 TRUSTEE’S OBJECTION TO
CONFIRMATION OF CHAPTER 13 PLAN**

Continued § 341(a) Meeting:

Date: September 5, 2018
Time: 10:00 am
Place: Room 1-154
411 W. 4th Street, Santa Ana, CA

Confirmation Hearing:

Date: September 20, 2018
Time: 1:30 pm
Courtroom: 5D
Address: 411 West Fourth Street,
Santa Ana, CA 92701

PLEASE TAKE NOTICE that Amrane Cohen, Chapter 13 Trustee (“Trustee”), hereby objects to confirmation of Debtor’s Chapter 13 Plan filed 07/30/2018 [Docket No. 20] (the “Plan”), the confirmation hearing for which is set on the date, time, and location indicated above.

NOTICE IS GIVEN that unless an earlier date is provided by the Local Bankruptcy Rules (“LBR”), any documents requested herein or required to be provided to the Trustee must be provided not later than seven (7) calendar days prior to the confirmation hearing.¹

¹ The Local Bankruptcy Rules may be found at <http://www.cacb.uscourts.gov/local-rules>.

1 **NOTICE IS GIVEN** that any reply to this objection must be in writing, filed with the Court,
2 and served upon the Trustee not later than seven (7) calendar days prior to the confirmation hearing.
3 Unless the Court finds good cause, a reply document not timely filed and served may not be
4 considered.

5 The claims bar date for non-governmental units of 9/17/2018 will have passed by the
6 confirmation hearing.

7 1. Notice and proof of service of the Plan has not been filed. LBR 3015-1(b)(3).

8 2. The following income tax returns have not been provided to the Trustee: 2016 state.
9 LBR 3015-1(c)(3).

10 3. Schedule A/B asserts that Debtor has only a one-half interest in the real property located
11 at 120 S. Milton Street, Anaheim, CA. At the § 341(a) meeting, Debtor stated that the sole basis for
12 claiming only a one-half was due to his spouse's community interest in the property. This is an
13 improper basis for such an assertion and Debtor is requested to amend Schedule A.

14 4. Per Schedule E/F there are no unsecured creditors listed. However, LVNV Funding has
15 filed an unsecured proof of claim no. 01 and the Franchise Tax Board has filed proofs of claims no. 02
16 and 03 which contain general unsecured liability. Debtor's disclosed monthly net income per schedules
17 is 2,100 whereas the plan payment is \$962. Given Debtor's net monthly income, this should be 100%
18 plan versus the 0% plan proposed. A higher percentage plan may also be required due to the chapter 7
19 liquidation test (11 U.S.C. § 1325(a)(4)) and the means test (11 U.S.C. § 1325(b)).

20 5. The Plan at Part 2, Section I.B.1, fails to specify whether it is percentage or residual
21 plan.

22 6. The Plan at Part 2, Section I.B.2, fails to set forth an amount to be paid to general
23 unsecured creditors per the chapter 7 liquidation test (11 U.S.C. § 1325(a)(4)) and the means test (11
24 U.S.C. § 1325(b)).
25
26

1 7. The Plan is not feasible, as the Franchise Tax Board priority proof of claim no. 02 of
2 \$9,917.64 is not provided for in the Plan.

3 8. The Plan is not feasible, as the Franchise Tax Board priority proof of claim no. 03 of
4 \$756.31 is not provided for in the Plan.

5 9. The Trustee reserves the right to supplement this objection or raise additional grounds
6 for objection at the confirmation hearing based upon failure to make payments, claims filed, and/or
7 documents provided.

8 Dated: September 6, 2018

/s/ Brian D. Wirsching

Staff Attorney for

Amrane Cohen, Chapter 13 Trustee

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12
13 **VERIFICATION**

14 I, Brian D. Wirsching, declare that I am employed as a staff attorney for Amrane Cohen,
15 Chapter 13 Trustee in this case ("Trustee"). The Trustee is the duly appointed chapter 13 trustee in the
16 instant case. I have personally reviewed the files and records maintained by the Trustee in this case and
17 the facts stated this objection are true and correct to the best of my knowledge.

18 Dated: September 6, 2018

By: /s/ Brian D. Wirsching

Attorney for Amrane Cohen, Chapter 13 Trustee

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

770 The City Drive South, Suite 8500, Orange, CA 92868

A true and correct copy of the foregoing document entitled (*specify*): **CHAPTER 13 TRUSTEE'S OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 09/06/2018, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Amrane Cohen efile@ch13ac.com
United States Trustee (SA) ustpregion16.sa.ecf@usdoj.gov
Ronald A Norman ronaldanorman@sbcglobal.net

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 09/06/2018, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Randy Ramirez
120 S. Milton Street
Anaheim, CA 92806

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

The Hon. CATHERINE E. BAUER

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

09/06/2018
Date

Rachel Saucedo
Printed Name

/s/ Rachel Saucedo
Signature